DOCUMENTS
ROOM

GEN/NAR/64/CONF.2/1
1 September 1964
ENGLISH
Original: Spanish

INTER-AMERICAN CONSULTATIVE GROUP
ON COCA LEAF PROBLEMS

La Paz, 16 - 26 November 1964

INTERNATIONAL CONTROL OF COCAINE, ITS DERIVATIVES AND THE COCA LEAF

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GE.64-7188

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INTERNATIONAL CONTROL OF COCAINE, ITS DERIVATIVES AND THE COCA LEAF

1. The international control of cocaine and its salts and of its raw material, the coca leaf, became a matter of concern to the international community as soon as their addiction-producing effects were scientifically established, that is to say, as soon as their supposed beneficial properties were disproved and their harmful effects upon the individual became apparent. As in the case of heroin, the toxic and addiction-producing effects of cocaine were seen in a new light after its isolation by Niemman[1/], when it ceased to be considered a universal panacea and its real nature was revealed. Anorexia and hypo-aesthesia are simultaneous and parallel effects of this harmful poisoning of the central nervous system.

2. This document describes briefly the evolution of the system of control applied to cocaine and its salts and to the coca leaf in international conventions on narcotic drugs, accompanied by comments upon this historical process, and attempts to evaluate the progress achieved. Although this review is brief, it claims to be complete, bearing in mind the fact that the treaties which effectively establish some control over cocaine and its derivatives and the coca leaf are the Convention of 1912, that of 1925, that of 1931, and the Single Convention of 1961.

The Hague Convention of 1912[2/]

3. This Convention, which marks the beginning of international narcotics control, although it refers in particular to opium and its derivatives, has the merit of establishing the basic principles of international action in the matter of narcotics control in general which are still valid today.

1/ Albert Niemman is considered to be the discoverer of cocaine. Dr. Scherzer who accompanied the Austrian frigate "Novara" on an expedition to South America, brought back to Europe specimens of Peruvian coca leaf. Those coca leaves were sent to Professor Woehter of Gottingen to be analysed. The analyses and examination were entrusted to his assistant, Dr. Albert Niemman, who realised the seriousness of his research and its probable importance. Using alcohol, sulphuric acid and carbonate of soda, he discovered the alkaloid which became known as cocaine.

"Peru, History of Coca" by W. Golden Mortimer, M.D. New York, J.H. Vail and Company 1901, pages 296 et seq.

2/ International Opium Convention signed at The Hague on 23 January 1912.

4. It includes a definition of cocaine as: "the principal alkaloid of the leaves of Erythroxylon Coca having the formula $C_{17}H_{21}NO_4$" (Chapter II).

5. It places under international control cocaine, its salts, and preparations containing more than 0.1 per cent of cocaine (article 14). The Contracting Powers undertake to limit the use of cocaine and its salts to medical and other legitimate purposes (article 9). They also undertake to control the manufacture, import, sale, or any other method of disposal, distribution and export of cocaine and its salts (article 10); to require that all persons engaged in such activities shall be furnished with a licence and to control the buildings in which cocaine is manufactured or distributed. Such persons are also required to enter in their books the quantities manufactured, imported, exported and distributed.

6. The Contracting Powers are required to take measures to ensure that cocaine and its salts are only exported to authorized persons in the importing country; for that reason, Governments are to communicate to each other lists of persons to whom import permits have been granted (article 13). The despatch of cocaine, its salts and preparations in the form of postal packages is prohibited (article 19). Governments are required to examine the possibility of making it a penal offence to be in illegal possession of cocaine and its salts, unless laws on the subject are already in existence in their countries (article 20). Lastly, the Contracting Powers undertake to communicate to one another the texts of existing laws and administrative regulations or those promulgated in virtue of the clauses of the Convention. Statistical information as regards the trade in cocaine, its salts and preparations, is also to be communicated (article 21).

7. This instrument, which, like any other human enterprise, has its defects, was chiefly criticized on the ground that it was incomplete.

8. It was not put into force, although the necessary Protocol had been adopted, because of the outbreak of the First World War.

9. By the Treaty of Versailles[1], however, the League of Nations was entrusted with the application of the Convention. The Advisory Committee on Traffic in Opium and Other Dangerous Drugs was set up, and those nations signing the Treaty of Peace which had not acceded to the Hague Convention agreed to accept the obligations laid down therein.

First Opium Conference

10. As a result of that Conference, an Agreement signed at Geneva on 11 February 1925 was concluded between the British Empire (with India), China, France, Japan, the Netherlands, Portugal, and Siam. Although this Agreement, supplementing the International Opium Convention of The Hague, is of no importance in connexion with the control of cocaine or coca leaf, it is mentioned here because it established a precedent for what was to be later the State monopoly. Principles are laid down therein which are applicable in the case of a State body entrusted with the right to import, sell and distribute opium, a right which cannot be leased, accorded or delegated to any other person. The State body also has the right to manufacture prepared opium intended for sale. Similarly, it is laid down that persons entrusted with the distribution and sale of opium shall receive a fixed salary and not a commission on their sales. Moreover, they must hold a license issued by the Government As preventive health measures, the sale of prepared opium to minors and their admission to opium dens are prohibited, and it is laid down that adequate steps shall be taken to prevent the spread of the opium-smoking habit among minors[2].

1/ In article 295 of the Treaty of Peace with Germany of 28 July 1919, it was stated that those of the Contracting Parties who had not yet signed or who had signed but not yet ratified the Opium Convention signed at The Hague on 23 January 1912 agreed to bring the said Convention into force and for that purpose to enact the necessary legislation without delay, and in any case within a period of twelve months from the coming into force of that Treaty. Furthermore, the Contracting Parties agreed that ratification of the Peace Treaty should be deemed equivalent to the ratification of the Opium Convention and the Special Protocol for bringing the said Convention into force.

Moreover, article 23 of the Covenant of the League of Nations provided that its Members should "entrust the League with the general supervision over the execution of agreements with regard to the traffic in opium and other dangerous drugs." In that connexion, the League set up an Advisory Committee on Traffic in Opium and Other Dangerous Drugs to advise the League Council.

2/ Apart from the purely historical interest of this agreement, we have mentioned the provisions relating to opium because, mutatis mutandis, some of the preventive health measures are applicable to the gradual elimination of the coca leaf.

25 Convention[1/]

After the setting-up of the League of Nations and of the Advisory Committee on ffic in Opium and other Dangerous Drugs, the Second Opium Conference, attended by rteen nations, met at Geneva to supplement the provisions of the 1912 Convention. 1925 Convention was the result of that Conference's work.

In the introductory part it is stated that contraband trade in and abuse of narcotic stances continue on a great scale and cannot in fact be effectually suppressed except bringing about a more effective limitation of the production or manufacture of the stances and by exercising a closer control and supervision of international trade. that reason further measures are introduced to complete and strengthen the provisions the 1912 Convention.

The Geneva Convention of 1925, to avoid misunderstandings, begins by defining the ms raw opium, medicinal opium, morphine, diacetylmorphine, coca leaf, crude cocaine, aine, ecgonine and Indian hemp. It defines the coca leaf[2/] as the leaf of the throxylon coca Lamarck and the Erythroxylon novo-granatense (Morris) Hieronymus and ir varieties, belonging to the family of Erythroxylaceae and the leaf of other species this genus from which it may be found possible to extract cocaine either directly or chemical transformation.

"Crude cocaine" is defined as any extract of the coca leaf which can be used directly indirectly for the manufacture of cocaine.

"Cocaine" is defined as metyl-benzoyl laevo-ecgonine ($[\alpha]_D 20^\circ = -16^\circ 4$ in 20 per cent tion of chloroform), of which the formula is $C_{17}H_{21}NO_4$. "Ecgonine" is defined as ro-ecgonine ($[\alpha]_D 20^\circ = -45^\circ 6$ in 5 per cent solution of water), of which the formula $C_9H_{15}NO_3H_2O$, and all the derivatives of laevo-ecgonine which might serve industrially its recovery.

International Opium Convention signed at the Second Opium Conference held at Geneva on 19 February 1925.

Coca leaf is obtained from certain shrubs native to the western part of South America, where they have been cultivated from ancient times up to the present day. They are mainly cultivated in Bolivia, Peru and Colombia. According to the best qualified botanists, shrubs producing coca leaf belong to two species, Erythroxylum coca Lamarck and Erythroxylum coca novogranamente (Morris) Hieronymus. The generic name used is Erythroxylon. There are two varieties of coca leaf, Huánuco and Truxillo (or Trujillo), which correspond to the two species. Although both contain cocaine, their chemical composition differs slightly and they are produced in different regions. It is unlikely that genuinely wild shrubs exist, but shoots may appear on waste land. The Huánuco leaf is the larger and is the variety grown in Bolivia, and at Huánuco, Cuzco and elsewhere in Peru and is known as the Erythroxylum coca Lamarck leaf. It contains between 0.5 and 1 per cent of alkaloids soluble in ether and 70 to 90 per cent of the total alkaloid is cocaine. The Truxillo leaf is smaller and of slightly different shape. It is grown in the north of Peru and in Bolivia. It is sometimes called "the Peruvian leaf" but the term is not correct since the Huánuco leaf is also cultivated in Peru. The Truxillo leaf is Erythroxylum novogranatense Hieronimus. Although it contains the same quantity of total alkaloids, the proportion of pure cocaine is less.

There are also other varieties.

16. The title of the second chapter is "Internal control of raw opium and coca leaves", which indicates the desire to control the raw materials of natural narcotics. The Contracting Parties undertake to limit the number of towns, ports or other localities through which the export or import of coca leaves shall be permitted (article 3).

17. With regard to manufactured drugs, the Contracting Parties undertake to enact laws or regulations to limit exclusively to medical and scientific purposes the manufacture, import, sale, distribution, export and use of narcotics, including crude cocaine, ecgonine, cocaine and its salts, as well as preparations containing more than 0.1 per cent of cocaine (article 4(b), (c), (d) and article 5).

18. Under the provisions relating to the internal control of manufactured drugs, the Contracting Parties undertake to control all persons manufacturing, importing, exporting, selling, or otherwise distributing the substances concerned as well as the buildings or premises intended for the manufacture of crude cocaine, ecgonine and cocaine; persons engaged in those activities must obtain a licence or permit and must enter in their books the quantities of drugs manufactured, imported, exported or otherwise distributed (article 6).

19. The Contracting Parties must also prohibit delivery to, or possession by, any unauthorized person of such substances (article 7).

20. With regard to the control of international trade in drugs, including cocaine, they are subject to the system of export authorizations and import certificates applicable to consignments of drugs under which it is compulsory to specify the quantity and name of the drug, the names and addresses of the importers and exporters, the period within which the importation or exportation must be effected and the particulars given in the copy of the export authorization as to the amount actually imported (articles 12, 13 et seq.) This system is applicable even in free ports and zones (article 14).

21. In order to prevent diversions into illicit traffic of consignments of drugs passing through the territory of several countries, changes of route are as a rule prohibited and Governments must take steps to prevent them, but if such a change becomes unavoidable, a certificate must be issued to that effect (article 15).

22. This Convention provides, in article 19, for the appointment of an international control body[1/]. The Contracting Parties agree to send in annually to the Board figures and estimates of the quantities of each drug (including cocaine) to be imported for internal consumption for medical, scientific and other purposes, and if the quantity is modified, to communicate the revised figures to the Board (article 21)

23. They also undertake to send statistics relative to the preceding year showing:

- production of coca leaves (article 22 (a));
- manufacture of crude cocaine, ecgonine, prepared cocaine and its salts;
- raw materials used;
- raw materials used in making flavouring extracts, separately stated;
- stocks in the hands of wholesalers;
- stocks held by the Government; and
- confiscations (article 22).

24. Statistics of imports and exports are also to be forwarded at the end of each period of three months (article 22). In supplying such statistics the amounts required in countries for internal purposes are to be stated separately.

25. To ensure compliance with the provisions of the 1925 Convention, certain measures of pressure may be taken by the Permanent Central Board, based on the force of public opinion in its supervision of the course of international trade. Thus, if a country accumulates excessive quantities of drugs and there is a danger of its becoming a centre of illicit traffic, and if that country is a Contracting Party (article 24), the Board may:

(a) ask for explanations through the Secretary-General of the United Nations;

(b) call the attention of the Governments of all the Contracting Parties and of the Economic and Social Council to the matter;

1/ This body, called the Permanent Central Board, consists of eight persons who, by their technical competence, impartiality and disinterestedness, command general confidence. Its members must be appointed in equitable proportion, two from producing countries, two from manufacturing countries, and four from consuming countries; they are appointed for five years but are eligible for reappointment. They settle their own rules of procedure. Provision is made for the appointment of the secretary and staff of the Board (article 20).

(c) recommend that no further exports shall be made to the country concerned;

(d) bring the matter before the Economic and Social Council, in cases of non-compliance with recommendations, but in such cases the Board shall publish a report to be forwarded to Governments.

26. In the case of a country which is not a Party to the Convention and which is in danger of becoming a centre of illicit traffic through having accumulated excessive quantities of drugs (article 26) the following measures may be taken:

(a) the country in question shall be notified;

(b) it shall be invited to be represented at meetings of the Board;

(c) the series of measures indicated in the preceding paragraph may be taken.

27. The Contracting Parties agree to impose adequate penalties and also to confiscate the substances concerned in the case of breaches of the laws and regulations by which the Convention is enforced. They also undertake to punish acts likely to procure or assist the commission of an offence against laws relating to the subjects mentioned in that instrument (articles 28 and 29).

28. The Contracting Parties undertake to communicate to one another their laws and regulations on the subject.

29. Lastly, the Convention mentions specifically the provisions of the Hague Convention which it replaces (article 31), and indicates the procedure to be followed in disputes concerning their interpretation or application, which may be settled through diplomatic channels, by seeking an advisory opinion from the competent technical body or by bringing the case before the International Court of Justice.

The 1931 Convention[1/]

30. The purpose of this Convention is to limit the manufacture and regulate the distribution of narcotic drugs. To that end, it establishes a reliable system of estimates and statistics, both national and international, whereby world manufacture of narcotic drugs is limited to the amount required for medical and scientific purposes.

1/ Convention for limiting the manufacture and regulating the distribution of narcotic drugs, signed at Geneva on 13 July 1931, and amended by the Protocol of 11 December 1946.

31. The Convention lists the drugs to which it applies and classifies them in Group I and Group II. Group I, which is further sub-divided into sub-groups (a) and (b), contains all the drugs known at the time with the exception of methylmorphine (codeine) and ethylmorphine (dionine) and their salts which are placed in Group II.

32. Cocaine and its salts, including preparations made direct from the coca leaf and containing more than 0.1 per cent of cocaine, all the esters of ecgonine and their salts are expressly mentioned in Group I, sub-group (a), paragraph (iii).

33. A definition of terms is then given: for instance "coca leaf" means the leaf of the Erythroxylon Coca Lamarck and the Erythroxylon novogranatense (Morris) Hieronymus and their varieties belonging to the family of Erythroxylaceae and the leaf of other species of this genus from which it may be found possible to extract cocaine either directly or by chemical transformation.

"Cocaine" means methyl-benzoyl laevo-ecgonine ($[\alpha]_D^{20^\circ} = -16^\circ 4$ in 20 per cent solution of chloroform) of which the formula is $C_{17}H_{21}O_4N$.

"Ecgonine" means laevo-ecgonine ($[\alpha]_D^{20^\circ} = -45^\circ 6$ in 5 per cent solution of water), of which the formula is $C_9H_{15}O_3N.H_2O$, and all the derivatives of laevo-ecgonine which might serve industrially for its recovery (article I.3).

34. To ensure control the Contracting Parties agree:

1. to limit the manufacture, import, sale, distribution, export and use of narcotic substances exclusively to the amounts required for medical and scientific purposes,
2. to supervise persons engaged in the above operations,
3. to control establishments or premises where such operations are carried out,
4. to issue licences under certain conditions to persons engaged in such activities,
5. to ensure that such persons keep a register of their operations.

35. The World Health Organization has the power to exempt from control, as a result of its research, any preparation containing drugs, provided it is not capable of producing addiction.

36. For international control the system of import certificates and export authorizations is applied.

37. Provision is also made for the furnishing to the Permanent Central Board of statistics relating to manufacture, conversion, existing stocks, consumption, confiscations, imports and exports.

38. The Contracting Parties undertake to impose penalties on persons infringing laws relating to narcotics enacted in compliance with the Convention.

39. All preparations containing drugs included in Group I are subject to the same control.

40. Drugs included in Group II, being less dangerous, are subject to less drastic control measures and are obtainable without a medical prescription.

41. Governments may allow a wider margin in preparing figures or estimates for drugs in Group II.

42. Article 6 provides for the limitation of the quantity of drugs that may be manufactured in any one year. Paragraph 2 of that article provides that if this limit is exceeded, such excess shall be deducted from the amount to be manufactured during the following year. The total amount to be manufactured in any one year includes the quantity necessary for medical and scientific needs and the quantity necessary for the purpose of conversion, whether for domestic consumption or for export, as well as the quantities required for the establishment and maintenance of Government stocks (article 5).

43. This system of estimates, based on medical and scientific requirements (article 4), to be furnished each year to the Permanent Central Board for examination by the Supervisory Body set up under the Convention (article 5, paragraph 6) enables effective control to be exercised since, in addition, if any contracting Party or one of its territories, or even countries which are not Parties, have not furnished figures or estimates, the Supervisory Body makes the estimate for them.

44. It is stipulated that if an exporting country receives from a country which is not a Party to the Convention for a request for more than 5 kilogrammes of a drug in Group I the authorization shall not be issued until the Permanent Central Board has notified the exporting country that such an export does not exceed the estimates for the importing country (article 14).

45. Each year the Permanent Central Board must prepare a statement showing in respect of each country the estimates in respect of each drug and the amounts consumed, manufactured, converted, imported, exported and used for the compounding of preparations.

46. If such statement indicates that any Contracting Party has failed to carry out his obligations under the Convention, the Board has the right to ask for explanations in accordance with the procedure laid down in article 24 of the Geneva Convention.

47. The Contracting Parties must take all legislative or other measures that may be necessary to give effect to the Convention.

48. They must also create a special administration responsible for applying the provisions of the Convention, regulating, supervising and controlling the trade in drugs, organizing the campaign against drug addiction and preventing illicit traffic (article 15).

49. The export of diacetylmorphine and its salts and preparations containing those substances is restricted; not only are export authorizations and import certificates required, but such substances must be distributed by and on the responsibility of the importing Governments (article 10).

50. There are also restrictions on the trade in and manufacture of opium and ecgonine alkaloids.

1936 Convention[1/]

51. This Convention was the last treaty relating to narcotic drugs concluded under the League of Nations. It might be described as a code of international penal law for offences connected with the traffic in narcotic drugs. It has two aims: the Contracting Parties agree firstly to enact legislation severely punishing drug traffickers and secondly to prevent such persons from escaping justice by leaving the country in which they have committed the offence and taking refuge in another.

52. They also undertake to set up within the framework of their domestic laws a central police office for the supervision and co-ordination of all operations necessary to prevent such offences and, if they are committed, for the prosecution of offenders.

53. The Contracting Parties agree to enact legislation, as already stated, for severely punishing by imprisonment or other penalties of deprivation of liberty offences connected with the traffic in narcotics (article 2).

1/ Convention for the suppression of the illicit traffic in dangerous drugs, signed at Geneva on 26 June 1936 and put into force in October 1939.

54. The punishable offences are the manufacture, conversion, extraction, preparation, possession, offering, offering for sale, distribution, purchase, sale, delivery on any terms whatsoever, brokerage, importation and exportation of narcotic drugs, contrary to the provisions of the Conventions of 1912, 1925 and 1931.

55. Conspiracy, attempts and preparatory acts also constitute intentional participation in such offences (article 2).

56. Countries producing raw materials (agricultural products) whose national law regulates cultivation, gathering and production, undertake to punish severely any contravention of such law (article 5).

57. Instruments and substances intended for the commission of narcotics offences are liable to confiscation and seizure by the Government (article 10).

58. Each act, if committed in different countries, is to be considered as a distinct offence (article 4).

59. There are provisions concerning habitual offences for the benefit of Contracting Parties which recognize the principle of international recognition of previous convictions, concerning extradition as a supplementary measure to ensure prosecution (articles 6, 7, 8 and 9).

60. The Central Office is a police body responsible for the supervision and co-ordination of operations necessary to prevent offences and prosecute offenders. For that purpose its main functions are to maintain contact with other institutions and offices, to centralise information of a nature to facilitate the investigation and prevention of offences, and to correspond direct with the central offices of other countries (articles 11 and 12).

61. To facilitate prevention and suppression the offices are to communicate particulars of transactions, the identity of traffickers and discoveries of secret factories of narcotic drugs.

62. The Convention also regulates such matters as letters of request (article 13), upholds the sanctity of each country's domestic penal jurisdiction (article 15) and requires the Contracting Parties to communicate an annual report on illicit traffic as well as the laws and regulations promulgated in order to give effect to the Convention (article 16).

63. The remaining provisions are of a procedural nature and cover disputes, reservations, ratification, accession, entry into force, denunciation, conditions in which the Convention may cease to be in force, authentic texts and revision procedure.

1948 Protocol[1/]

64. As stated in the preamble to this instrument, the progress of modern pharmacology and chemistry had resulted in the discovery of drugs, particularly synthetic drugs, capable of producing addiction but not covered by the 1931 Convention and it was therefore deemed desirable to supplement the provisions of that instrument by placing those drugs and preparations containing them under control, since they were liable to the same kind of abuse and productive of the same kind of harmful effect as the substances specified in Group I or Group II (article 1, paragraph 2 of the said Convention), and by subjecting them to the system of provisional or regular control measures decided upon in accordance with the findings of the World Health Organization on the drug in question, after the required notification procedure.

65. It is expressly stated in article 4 that the Protocol does not apply to coca leaf as defined in article 1 of the Convention of 19 February 1925.

66. The remaining general provisions refer to the entry into force of the Protocol, signature, acceptance, reservation, denunciation and registration.

1953 Opium Protocol[2/]

67. With a view to strengthening the international system of narcotics control (with national effects) and continuing the efforts to combat drug addiction and illicit traffic in narcotic substances, this protocol was concluded to limit to medical and scientific needs and regulate the production of raw materials from which natural narcotic drugs are obtained. This is of interest regarding action taken later in the case of the coca leaf.

68. It is here stated for the first time in an international document, although only in the preamble, that it is essential to regulate the production of the raw materials, that is to say the agricultural products, from which natural drugs are obtained. It is true that this general objective is immediately limited ("realizing that the most urgent probl are those ...") to the control of the cultivation of the poppy and of the production of opium; that is to say, coca leaf and cannabis are not yet included in the system of agricultural control.

69. The Parties agree to limit the use of opium to their medical and scientific needs (article 2).

1/ Protocol bringing under international control drugs outside the scope of the Convention of 13 July 1931 for limiting the manufacture and regulating the distribution of narcotic drugs, as amended by the Protocol signed at Lake Success on 11 December 1946.

2/ Protocol for limiting and regulating the cultivation of the poppy plant, the production of, international and wholesale trade in, and use of opium, signed in New York on 23 June 1953 and in force since 8 May 1963.

70. With a view to controlling the production and use of and trade in opium, the producing States undertake to establish or maintain a government agency to perform the functions of limiting production to designated areas, specifying the area on which cultivation is permitted, and issuing licences to cultivators of the poppy who are required to deliver their total crops to the agency, which must purchase and take possession of the said crops, with the exclusive right of importing, exporting and wholesale trading in opium and of maintaining opium stocks (article 3).

71. The Parties also agree to ensure that poppies cultivated for the production of seeds and oil will not be used for the extraction of opium; that the manufacture of alkaloids from poppy straw is controlled and that copies of rules and regulations enacted for that purpose are transmitted to the Secretary-General and statistics of poppy straw to the Board (article 4).

72. The purpose of the Protocol being to limit the world production of opium exclusively to medical and scientific needs, each Party's stocks are limited in order to avoid the risk of excessive accumulation and possible diversion into illicit traffic.

73. The international trade in opium is limited to imports from the producing countries: Bulgaria, Greece, India, Iran, Turkey, the USSR and Yugoslavia, which undertake to export only to the Parties and in quantities not exceeding their needs (article 6), subject at all times to the system of import certificates and export authorizations (1925 Convention).

74. Opium seized in illicit traffic is to be destroyed, with certain exceptions (article 7) The Parties undertake to forward to the Board figures and estimates of their needs (including supplementary estimates), statistics of amounts consumed, used in preparations, confiscated, etc., reports on the organization and functions of the agency they have set up, the legislative and administrative measures adopted, and an annual report on the workin of the Protocol and any additional relevant information (articles 8, 9 and 10).

75. To ensure supervision and proper enforcement of the Protocol, certain administrative and other measures are provided, including coercive measures ranging from requests for information, explanations, local enquiries and public statements to the imposing of a mandatory embargo. Such measures may be taken even in respect of States which are not Parties to the Protocol (articles 12, 13 and 14).

76. The remaining procedural articles refer to disputes, signature, ratification, accession, transitional measures, coming into force, revision, denunciations, termination, reservations and communications.

Single Convention[1/]

77. The Single Convention marks an important stage in the evolution of the treaties for the international control of narcotic drugs. International control is exercised basically through the supply by Governments to the control organs[2/] of information which serves to compare the production, manufacture and distribution of narcotic drugs throughout the world; the system of export authorizations and import certificates; annual reports; the communication of texts of laws and regulations; reports of seizures of drugs used in illicit traffic; notifications of substances liable to produce addiction, and other measures which provide the basis of the operation of the control system and which are enforced by the measures of coercion provided for in the instruments.

78. Like every human institution and achievement, the system has been gradually perfected by continuous and repeated efforts, passing through the stages briefly reviewed in this survey and culminating in the codification contained in the Single Convention, which represents a step forward in the endeavour to control substances the abuse of which is detrimental to man.

79. As we have seen, international co-operation in the control of opium and other substances by limiting their use to legitimate requirements and establishing a system of licences and registers, began with the Hague Convention of 1912 which had notable defects, including that of leaving the export and import of narcotic drugs in the hands of private individuals, and which was also criticized for being incomplete.

80. The chief merits of the 1925 Convention were that it set up a system of estimates and statistics, supplemented by export authorizations and import certificates and controlled by an international body subsequently called the Permanent Central Opium Board. Nevertheless production and manufacture remained, practically speaking, unrestricted. It was the 1931 Convention which proposed that the manufacture of

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1/ Single Convention on Narcotic Drugs, signed in New York on 30 March 1961 as a result of the Plenipotentiary Conference convened by the United Nations and held at Headquarters from 24 January to 25 March 1961, attended by representatives of 73 countries and of specialized agencies.

2/ The existing control organs are the Commission on Narcotic Drugs, the Permanent Central Opium Board and the Supervisory Body. Under the new Convention they will be reduced to two: the Commission on Narcotic Drugs of the Economic and Social Council and the International Narcotics Control Board.

narcotics should be limited to world requirements for medical and scientific purposes, and that their distribution should be regulated through direct intervention by Governments. Thus a complete framework was established, taking into account the fact that the system of international control could only be effective if it was universally applied, that is, if it was applied even to States which were not Parties to the Convention; for that reason the Supervisory Body and measures of compulsion based on public opinion were instituted.

81. In the course of this historical evolution, since contraband trade in drugs continued, a new instrument was forged, the 1936 Convention, for the purpose of obliging Parties to prosecute illicit traffickers and to punish them severely through the promulgation of appropriate laws in each country. It provided that the commission of illicit traffic offences would render the offenders liable to extradition, and required Parties to set up national central police offices to deal with such international offenders (by co-ordinated action).

82. After this instrument had come into force[1] the Second World War broke out, and when the United Nations came into being, new instruments were produced. The 1946 Protocol simply transferred the functions previously devolving on the League of Nations to the United Nations and its organs.

83. The 1948 Protocol signed at Paris supplemented international control at a time when chemical discoveries had produced new analgesic drugs which were entirely synthetic but unfortunately capable of producing addiction and which were not covered by international agreements.

84. There was still one gap to be filled, namely the control of agricultural products which were the raw materials of natural drugs, and the 1953 Protocol was therefore concluded for limiting and regulating the cultivation of the poppy plant, the production of, international and wholesale trade in, and use of opium.

85. Finally, as we have seen, a plenipotentiary conference was convened in 1961 at United Nations Headquarters for the adoption of a single convention on narcotic drugs which would bring up-to-date the provisions of existing treaties and codify them in a single instrument in order to facilitate their application and bring the cannabis plant, the coca bush and the coca leaf under the system of control.

1/ 1939.

86. This Single Convention on Narcotic Drugs contains the following provisions relating to the coca bush, the coca leaf, cocaine and its salts. Under the heading of definitions it is stated that "coca bush" means the plant of any species of the genus erythroxylon; "coca leaf" means the leaf of the coca bush except a leaf from which all ecgonine, cocaine and any ecgonine alkaloids have been removed; "cultivation" means the cultivation of the ... coca bush; "drug" means any of the substances in Schedules I and II, whether natural or synthetic (Schedule I includes coca leaf, cocaine (methyl ester of benzoylecgonine), ecgonine, its esters and derivatives which are convertible to ecgonine and cocaine); "production" means the separation of ... coca leaves, ... from the plants from which they are obtained (article 1, (e), (f), (i), (j) and (t)).

87. As narcotic drugs, the coca leaf, cocaine and ecgonine are subject to all general control regulations, such as those relating to legal and administrative measures to limit exclusively to medical or scientific purposes the production, manufacture, export, import, distribution of, trade in, use and possession of drugs (article 4, (c); annual estimates, that is estimates of the quantities of drugs to be consumed during the year for medical purposes and for the manufacture of preparations containing them (article 19), and statistical returns of production and manufacture, utilization for manufacture of preparations, consumption, imports and exports, seizures and stocks as at 31 December of each year (article 20); the limitation of manufacture and imports, which must never exceed estimates, in order to avoid excessive accumulation (article 21); the application of the license system to manufacture or conversion of drugs except where manufacture is carried out by a State enterprise; the supervision of the persons or enterprises concerned by the issue of periodical permits to the establishments, and the prevention of the accumulation of quantities in excess of those required for the normal conduct of business (article 29); and the regulation of trade and distribution by the requirement of licences for persons and premises and for the retail supply of drugs, that is, their dispensing to individuals against a medical prescription (article 30). International trade, that is imports and exports, is subject to the system of export authorizations and import certificates (article 31); the possession of drugs is not permitted except under legal authority (article 33); provision is made for measures of supervision and inspection applicable to persons engaged in those operations and their registers are subject to inspection (article 34); and drugs and equipment used in the commission of illicit traffic offences are to be confiscated (article 37).

88. In addition to the general obligations briefly mentioned, special obligations are laid down for countries producing coca leaf for the purpose of regulating its cultivation and limiting its production (articles 22, 26 and 27).1/

89. Another novelty of this instrument is that one of its articles states that if a Party has a serious problem of drug addiction and its economic resources permit, it is desirable that it should establish adequate facilities for the medical treatment, care and rehabilitation of drug addicts (article 38).

90. Since international control depends largely on national control systems, it is stated that Parties may adopt measures of control more strict than those provided by the Convention if they seem necessary for the protection of public health (article 39).

1/ Article 22. Special provision applicable to cultivation. Whenever the prevailing conditions in the country or a territory of a Party render the prohibition of the cultivation of the opium poppy, the coca bush or the cannabis plant the most suitable measure, in its opinion, for protecting the public health and welfare and preventing the diversion of drugs into the illicit traffic, the Party concerned shall prohibit cultivation.

Article 26. The coca bush and coca leaves. 1. If a Party permits the cultivation of the coca bush, it shall apply thereto and to coca leaves the system of controls as provided in article 23 respecting the control of the opium poppy, but as regards paragraph 2(d) of that article the requirements imposed on the Agency therein referred to shall be only to take physical possession of the crops as soon as possible after the end of the harvest. 2. The Parties shall so far as possible enforce the uprooting of all coca bushes which grow wild. They shall destroy the coca bushes if illegally cultivated.

Article 27. Additional provisions relating to coca leaves. 1. The Parties may permit the use of coca leaves for the preparation of a flavouring agent, which shall not contain any alkaloids and, to the extent necessary for such use, may permit the production, import, export, trade in and possession of such leaves. 2. The Parties shall furnish separately estimates (article 19) and statistical information (article 20) in respect of coca leaves for preparation of the flavouring agent, except to the extent that the same coca leaves are used for the extraction of alkaloids and the flavouring agent, and so explained in the estimates and statistical information.

91. The remaining provisions of the 1961 Convention are of a procedural nature, referring to the authentic languages of the instrument (article 40); procedure for signature, ratification and accession, and entry into force (article 41); territorial application (article 42); termination of previous treaties (article 44); transitional provisions concerning the manner in which the functions of the International Narcotics Control Board will be provisionally carried out (article 45); denunciation and conditions in which the Convention may cease to be in force (article 46); amendments (article 47); means of settlement of disputes arising with regard to the application or interpretation of the Convention, ranging from negotiation to judicial process (article 48); transitional reservations: their limitations and requirements (article 49); other reservations (article 50) and compulsory notifications (article 51).